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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,535	04/16/2004	Howard A. Fromson	FRO/188/US	2155

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EXAMINER	
LE, HOA VAN	

ART UNIT	PAPER NUMBER
1752	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/826,535	FROMSON ET AL.	
	Examiner	Art Unit	
	Hoa V. Le	1752	

-- The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) *11-18,25 and 28-33* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10,19-24,26-27 and 34-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 April 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

This is in response to Papers filed on 18 November 2004.

I. Applicants elect the invention of Group I, claims 1-10, 19-24, 26-27 and 34-40 as newly added and amended with traverse being acknowledged.

II. The record shows that applicants could not be able to provide any reasonable issue for their traversal. Accordingly, it is properly to treat the election as without traverse.

III. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 5-6, 19-23 and 34-40 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 29-38 and when they are read in light of the specification of prior U.S. Patent No. 6,793,418. This is a double patenting rejection.

The applied claims are related to a process for forming an image on an exposed lithographic plate having developed dissolvable and removable and developed undissolvable and

unremovable portions comprising the steps of jetting a uniform developer solution on the plate, remove the dissolvable portion together with the applied developer solution by the step of rinsing.

The applied claims do not have the property of "self-leveling flow of developer fluid". It is reasonable in the art that a fluid matter has a property of spreading out and form a leveling layer on a flat surface. Applicants are urged to provide an evidence to the contrary. The instant claims would have no value if someone later shows it to be true.

The claimed embodiments are required to read in light of the specification, at col.4:45-47 relating fluid form hole or slots being spreading out uniformly a cross the width of the plate and at 5:43-44 relating a fluid having low viscosity such as an aqueous metasilicate solution at 7: 24-15 and 53-54. The applied claims do not contain it but also do not exclude it. However, when the applied claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

The applied claims do not have "maintaining the developer fluid...without relative movement" but also do not exclude it. Please see the specification at col.2:38-39 that no movement is disclosed. However, when the applied claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

Please also see col.2:40-41, a movement may cause bubbles that produce uneven developed image. The applied claims do not relate or require a presence of a bubble. Accordingly, with a slight movement without causing a bubble an event developed image would be obtained. Applicants are urged to provide an evidence to the contrary. The instant claims

would have no value if someone later shows it to be true. In the absence of convincing evidence, the embodiment is a matter of selection to one having ordinary skill in the art.

Other embodiments of the instant claims can be seen in Fromson et al at figures 1 and 2, col.2:19-21, 38-41, 45-60; col.3:56 to 4:3; 45-47 and 53 to 5:24, 43-44, 63 to 6:59. . The applied claims do not exclude it. However, when the claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

For the above reasons, the instant claims are found to be reasonably rendered double patenting over applied claims 29-38 and embodiments in the specification when the applied claimed are read in light of the specification.

VI. Claims 1-3, 5-6, 9, 19-23 and 34-40 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 29-38 and when they read in light of the specification of prior U.S. Patent No. 6,793,418 considered in view of Templeton (2002/0046703). This is a double patenting rejection.

The applied claims are related to a process for forming an image on an exposed lithographic plate having developed dissolvable and removable and developed undissolvable and unremovable portions comprising the steps of jetting a uniform developer solution on the plate, remove the dissolvable portion together with the applied developer solution by the step of rinsing.

The applied claims do not have the property of "self-leveling flow of developer fluid". It is reasonable in the art that a fluid matter has a property of spreading out and form a leveling

layer on a flat surface. Applicants are urged to provide an evidence to the contrary. The instant claims would have no value if someone later shows it to be true.

The claimed embodiments are required to read in light of the specification, at col.4:45-47 relating fluid form hole or slots being spreading out uniformly a cross the width of the plate and at 5:43-44 relating a fluid having low viscosity such as an aqueous metasilicate solution at 7: 24-15 and 53-54. The applied claims do not contain it but also do not exclude it. However, when the applied claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

The applied claims do not have "maintaining the developer fluid...without relative movement" but also do not exclude it. Please see the specification at col.2:38-39 that no movement is disclosed. However, when the applied claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

Please also see col.2:40-41, a movement may cause bubbles that produce uneven developed image. The applied claims do not relate or require a presence of a bubble. Accordingly, with a slight movement without causing a bubble an event developed image would be obtained. Applicants are urged to provide an evidence to the contrary. The instant claims would have no value if someone later shows it to be true. In the absence of convincing evidence, the embodiment is a matter of selection to one having ordinary skill in the art.

In addition for the development period without any movement is not in the applied claims. Templeton at figure 7 at step 150 and paragraph [0046] is cited to show a development period being done without any movement for the advantage of completing a developing process

and obtaining evenly developed images. No developing apparatus or equipment is relied on in this reference.

Other embodiments of the instant claims can be seen in Fromson et al at figures 1 and 2, col.2:19-21, 38-41, 45-60; col.3:56 to 4:3; 45-47 and 53 to 5:24, 43-44, 63 to 6:59. . The applied claims do not exclude it. However, when the claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

Since the above references are all related to processes for forming an image on an exposed lithographic plate, it would have been obvious to one having ordinary skill in the art the time the invention was made to cite a development period being done with any movement from Templeton for the desired advantage of obtaining a development process and obtaining evenly developed image as disclosed, taught and suggested in Templeton.

V. Claims 1-2, 5, 9-10, 24 and 34-40 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-3 and when they are read in light of the specification of prior U.S. Patent No. 6,793,418 considered in view of Templeton (2002/0046703) and Szajewski et al (6,402, 398). This is a double patenting rejection.

The applied claims are related to a process for forming an image on an exposed lithographic plate having developed dissolvable and removable and developed undissolvable and unremovable portions comprising the steps of jetting a uniform developer solution on the plate, remove the dissolvable portion together with the applied developer solution.

The applied claims do not have the property of "self-leveling flow of developer fluid" but "uniform layer of developer solution" on the exposed plate. It is reasonable in the art that a fluid matter has a property of spreading out and form a leveling layer on a flat surface. Applicants are urged to provide an evidence to the contrary. The instant claims would have no value if someone later shows it to be true. In the absence of convincing evidence, the applied claimed language with respect "uniform layer of developer solution" would have the property of "self-leveling flow of developer fluid".

The claimed embodiments are required to read in light of the specification, at col.3:53-54 relating to a uniform film of developer on the plate. The applied claims do not contain it but also do not exclude it. However, when the applied claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

The applied claims do not have "maintaining the developer fluid...without relative movement" but also do not exclude it. Please see the specification at col.2:15-17 that no movement is disclosed. However, when the applied claims are required to read in light of the specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

Please also see col.2:17-18, a movement may cause bubbles that produce uneven developed image. The applied claims do not relate or require a presence of a bubble. Accordingly, with a slight movement without causing a bubble an event developed image would be obtained. Applicants are urged to provide an evidence to the contrary. The instant claims

would have no value if someone later shows it to be true. In the absence of convincing evidence, the embodiment is a matter of selection to one having ordinary skill in the art.

In addition for the development period without any movement is not in the applied claims. Templeton at figure 7 at step 150 and paragraph [0046] is cited to show a development period being done without any movement for the advantage of completing a developing process and obtaining evenly developed images. No developing apparatus or equipment is relied on in this reference.

Conventionally, a rinsing step is followed a developing step to rinse away a used developer solution and its insoluble material as disclosed at col.4:1 when the claims are read in light of the specification.

In addition for the rinsing step is not in the applied claims. Templeton at figure 7 at step 160 and paragraph [0046] is cited to show a rinsing step for the advantage of rinsing away of used developer solution and its insoluble material for a reasonable result of obtaining a clean image. No developing apparatus or equipment is relied on in this reference.

With respect to peristaltic pump in claim 23, it is not disclosed in the applied claims. Szajewski et al at col.6:5-7 is cited to show the known use of a peristaltic pump for applying a developer solution on a developing photosensitive material for an advantage of homogeneously spreading the solution on the developing material.

Other embodiments of the instant claims can be seen in Fromson et al at figure 1, col.1:9-12,24-26, 40-43; col.2:15-17, 26-33; col.3:33-35, 41-43, 50-55, 67; col.4:1 and 6-9. The applied claims do not exclude it. However, when the claims are required to read in light of the

specification, they would be given the benefit of the disclosure of such embodiment rather than exclude it.

Since the above references are all related to processes for forming images on an exposed photosensitive material, it would have been obvious to one having ordinary skill in the art the time the invention was made to cite a development period being done with any movement from Templeton for the desired advantage of obtaining a development process and obtaining evenly developed image and a step of rinsing after a development to rinse away the used developer solution and its insoluble material for a reasonable result of obtaining a clean image as disclosed, taught and suggested in Templeton and for the advantage of homogeneously spreading a developing solution on a developing photosensitive material from Szajewski et al.

VI. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-10, 24, 26-27 and 34, 37 and 40are rejected under 35 U.S.C. 103(a) as being unpatentable over Manico et al (5,027,146) considered in view of Templeton (2002,0046703) and Kottmair et al (6,506,533) and Utschig et al (3,194,706) and Reiter (4,830,887).

Manico et al disclose, teach and suggest a process for forming an image on an exposed light sensitive web (col.1:64-67) comprising the steps of vertically and stationary jetting down a developer solution and rinsing with water by using the use of a sensor, to operate the steps when

the web is presence on a conveyer to save cost, and used solutions are drained off. (figures 1,2 and 5; col.1:45-46; col.14-16, 37-38 and 55-56; col.4:44-47).

With respect to the property of "self-leveling flow of developer fluid", it is not disclosed in Manico et al. It is reasonable in the art that a Monico et al developer solution has a property of spreading out and form a leveling layer on a flat surface. Applicants are urged to provide an evidence to the contrary. The instant claims would have no value if someone later shows it to be true. In the absence of convincing evidence, the applied claimed language with respect "uniform layer of developer solution" would have the property of "self-leveling flow of developer fluid".

With respect to "maintaining the developer fluid...without relative movement", it is not disclosed in Manico et al. Since Monico et al is not related to or required the present of forming a bubble before of during a development period. Accordingly, Monico et al processes still obtain an evenly developed image. Applicants are urged to provide and evidence to the contrary. The claims would have no value if someone later show it to be true. In the absence of convincing evidence, the embodiment is a matter of selection to one having ordinary skill in the art.

In addition for the development period without any movement is not in the applied claims. Templeton at figure 7 at step 150 and paragraph [0046] is cited to show a development period being done without any movement for the advantage of completing a developing process and obtaining evenly developed images. No developing apparatus or equipment is relied on in this reference.

With respect to developer layer thickness on top of the lithographic plate and a proper amount of a developer solution being applied to the lithographic plate only in claims 9, 35, 38 and 39, they are not disclosed in Manico et al. Templeton at figures 2(a and b) and paragraph

[0032] is cited to show a developer solution is squeezed in between two plates at a distance of up to 5mm to form an evenly thickness developer layer for the advantage of obtaining a uniform developed image and an on/off switch to control a proper amount of a dispensing developer.

With respect to multiple jets in claims 4 and 7, it is not disclosed in Manico et al . Manico et al at figure 1 show single jet and figure 2 show a developer solution is applied to full width wide of a wed. Accordingly, it would suggest to one having ordinary skill in the art at the time the invention was made to use multiple jets to sufficiently applied a developer solution to the full width wide of the wed. For more than one applicator to sufficiently applied a developer to the full size of a developing article, Please see Templeton at figure 1b with multiple tip nozzles (10) at paragraph [0010]. No nozzle is applied in Templeton. Since both Manico et al and Templeton are related to methods for forming an image, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use multiple applicators (from Templeton) such as jets (from Manico et al) for sufficiently and fully coating a developing solution on a developing article such as an exposed lithographic plate (from Templeton).

With respect to development time and positive plate in claims 5 and 40, they are not disclosed in Manico et al. Kottmair et al at col.1:64 to col.2:62, col.6:64 to 7:15, col.8:47-67and at least Example 13 are cited to show conditional and unconditional positive plates. The plate is exposed and developed in about 40 second and rinsed to obtained the desired image.

With respect to Mayer rod in claim 8, it is not disclosed in Manico et al. Utschig et al at figure 2 and col.4:23-25 are cited to show the use of Mayer rods (47 and 48) on both side of a moving layer 40 for the advantage of transporting of a layer movement.

With respect to vertical curtain coating in claims 3 and 6, it is not disclosed in Manico et al. Reiter at figure 1 and its description is cited to show a known use of a continuous vertical curtain coating process for applying a material on a substrate for the advantage of applying a free fall of a material from the property of the earth gravity.

It has been shown that there is no novel material or processing step in the instant claims. They are all shown to be known in the art. However, the claims is more than a material and/or processing steps and are the combinations. Since the about references are related to materials and processing steps to arrive to obtain an image from an exposed lithographic plate, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the known materials and processing steps for reasonable expectations of completing a developing process, obtaining a uniform developed image, no wasted processing solution and fully and width wide depositing processing solution on the treating plate from Templeton teachings and suggestions; sufficient time of a developing process from Kottmair et al teachings and suggestions; transporting of a layer movement from Utschig et al teachings and suggestions; homogeneously spreading a developer solution on a developing photosensitive material from Szajewski et al teachings and suggestions and free fall coating process property from earth gravity from Reiter teachings and suggestions.

VII. Figures 5, 8 , 9 , 10a and 10b should be in straight curves and lines and numbers.

VIII. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:30 PM on Monday though Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
07 January 2005

HOA VAN LE
PRIMARY EXAMINER